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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,657	02/19/2002	Yoshiaki Yokoo	159-71	2579

23117 7590 01/19/2007

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EXAMINER	
BECKER, DREW E	
ART UNIT	**PAPER NUMBER**
1761	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/076,657	YOKOO ET AL.	
	Examiner	Art Unit	
	Drew E. Becker	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 November 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-11 and 14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-11 and 14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/22/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The declaration under 37 CFR 1.132 filed 8/16/06 is insufficient to overcome the rejection of claims 1, 4-11, and 14 based upon Chen et al as set forth in the last Office action because: the experiments conducted by Mr. Yokoo did not include the product of Chen et al. Specifically, Chen et al did not use "pulp-reduced" mango juice. Furthermore, Chen et al states that the juice provided natural color and flavor (column 9, lines 29-41) and that the pore size of the filter be sufficiently large for soluble color components to go through (column 8, line 1). Furthermore, applicants' specification states: "The mango juice depulping method is not particularly restricted, and centrifugal separation, filtration, membrane separation or the like may be employed" (page 5, line 12). Both applicants and Chen et al had the same goal, namely to reduce insoluble solids (such as pulp) while retaining soluble solids (such as color components).

In view of the foregoing, when all of the evidence is considered, the totality of the rebuttal evidence of nonobviousness fails to outweigh the evidence of obviousness.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al [Pat. No. 5,756,141].

Chen et al teach a processed mango juice having substantially no pulp (column 7, lines 33-60; claim 3), mango puree (column 5, line 45; column 10, line 16), a beverage made from mango juice and water (column 5, line 26), inherently preventing sedimentation due to the lack of pulp, providing lowered viscosity and excellent flavor (column 4, lines 58-65), the use of 5-35% aloe vera (column 13, line 20), an alcoholic drink (column 11, line 67), the juice having a natural color and flavor (column 9, lines 29-41), and the juice inherently having a turbidity above 2000 NTU. Phrases such as "by centrifugal separation" are merely preferred methods of making the claimed product.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al as applied above, in view of XP-002201947.

Chen et al teach the above mentioned components. Chen et al do not specifically recite fruit wine. XP-002201947 teaches a fruit wine made from mango juice (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the fruit wine of XP-002201947 into the invention of Chen et al since both are directed to mango juice

beverages, since Chen et al already included alcoholic drinks (column 11, line 67), and since mango wine was commonly known, as shown by XP-002201947.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al as applied above, in view of DE 20102826U1.

Chen et al teach the above mentioned components. Chen et al do not specifically recite liqueur. DE 20102826U1 teaches a liqueur made from mango juice (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the liqueur of DE 20102826U1 into the invention of Chen et al since both are directed to mango juice beverages, since Chen et al already included alcoholic drinks (column 11, line 67), and since mango liqueur was commonly known, as shown by DE 20102826U1.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al as applied above, in view of Wu et al [Pat. No. 5,468,508].

Chen et al teach the above mentioned components. Chen et al do not specifically recite a transparent container. Wu et al teach mango juice in a glass bottle (column 9, line 28; column 4, line 64). It would have been obvious to one of ordinary skill in the art to incorporate the glass bottle of Wu et al into the invention of Chen et al since both are directed to mango juice beverages, since Chen et al already included packaging (column 13, line 58), and since mango juice was commonly bottled in glass packages, as shown by Wu et al.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DE 4122634A1 teaches a method for centrifuging a fruit juice.

Response to Arguments

9. Applicant's arguments filed 8/22/06 have been fully considered but they are not persuasive.

Applicant argues that Chen et al did not teach a turbidity of at least 2000 NTU. However, Chen et al teach that the juice provided natural color and flavor (column 9, lines 29-41) and that the pore size of the filter be sufficiently large for soluble color components to go through (column 8, line 1). Although, the term "turbidity" is not used, the product of Chen et al inherently possessed a turbidity of at least 2000 NTU absent any clear evidence to the contrary.

The declaration under 37 CFR 1.132 filed 8/16/06 is insufficient to overcome the rejection of claims 1, 4-11, and 14 based upon Chen et al as set forth in the last Office action because: the experiments conducted by Mr. Yokoo did not include the product of Chen et al. Specifically, Chen et al did not use "pulp-reduced" mango juice. Furthermore, Chen et al states that the juice provided natural color and flavor (column 9, lines 29-41) and that the pore size of the filter be sufficiently large for soluble color components to go through (column 8, line 1). Furthermore, applicants' specification states: "The mango juice depulping method is not particularly restricted, and centrifugal separation, filtration, membrane separation or the like may be employed" (page 5, line 12). Both applicants and Chen et al had the same goal, namely to reduce insoluble solids (such as pulp) while retaining soluble solids (such as color components).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DREW BECKER
PRIMARY EXAMINER

1-10-07